

**PUBLIC PROSECUTOR**

**-V-**

**ANDREW KUAU  
THERESE SASIA**

*Probation Officer, Mr. S. Kapalu (Applicant)  
Second Defendant (Respondent)*

**DECISION**

On 26<sup>th</sup> February 2010 the second-named defendant was convicted by the Supreme Court for an offence of Aiding Sexual Intercourse with a Child Under Care and Protection contrary to sections 30 and 96 (1) (b) of the Penal Code. Upon her conviction the second defendant was sentenced to 2 years imprisonment suspended for 2 years and in addition, ordered to perform 300 hours of Community Work.

The file has been recalled before this Court in order to consider an application by the Probation Officer pursuant to Section 58X (2) of the Penal Code for an order cancelling the Community Work sentence and substituting in lieu thereof, a sentence of 12 months Supervision pursuant to section 58X (3) (c).

The reason given for the application is that the second defendant "*is suffering a health problem*". This is supported by a medical certificate from Dr. Bruce of Lenakel Hospital to the effect that the second defendant "*cannot work due to health problems – arthritis*" as well as by a sworn statement filed by the supervising Probation Officer that it is no longer in the best interests of the offender to be further subjected to an order of community work.

I have carefully considered the application and am satisfied that the grounds on which the application is based have been established and further, that the continuation of the sentence of Community Work is no longer necessary in the interests of the second defendant.

Accordingly the sentence of 300 hours of Community Work is hereby cancelled and in substitution therefor, I impose a sentence of 12 months Supervision pursuant to sections 58F and 58G of the Penal Code Act.

In imposing this sentence of Supervision, I am satisfied that it would reduce the likelihood of further offending by the second defendant and also assist in her rehabilitation and reintegration back into the community.

The second defendant's attention is drawn to the requirements of section 58J of the Penal Code which will be explained more fully to her by the Probation Officer.

The second defendant is also warned that failure to comply with the conditions of her substituted Supervision sentence is an offence punishable by imprisonment for 3 months or a fine of up to VT10,000.

If you disagree with this substituted sentence of 12 months Supervision, you may appeal to the Court of Appeal within 14 days.

**DATED at Isangel, Tanna, this 21<sup>st</sup> day of May, 2010.**

**BY THE COURT**



**D. FATIAKI**  
**Judge.**